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7 SUPERIOR COURT OF CALIFORNIA, COUNTY OF

8 THE PEOPLE OF THE STATE OF) Case No.
9 CALIFORNIA,)
10 Plaintiff,) ADMIT EVALUATION OF FAMILY
11 vs.) COURT EVALUATOR AND
12) HIS/HER RECORDS
13 Defendant.) Date:
Time:
Dept:
14)

15 **FACTS**

16 (Set forth the particular facts of your case, i.e., that the
17 victim/victims is/are or were the subject of a custody dispute,
18 that a family court evaluation was done at a particular time and
19 contains information favorable to your client in the current
20 criminal proceeding, specifying what that information is.)
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22 **(Name of Evaluator) IS NOT A MEDIATOR AND AS SUCH**
23 **THERE IS NO EXPECTATION OF PRIVACY**

24 (Name of evaluator) was not a mediator, he/she was appointed
25 as an evaluator to ascertain what would be the best custody
26 arrangement for the alleged victim(s). The evaluation is not a
27 mediation and it is believed that no confidentiality agreements
28

1 exist.

2 **BECAUSE THIS IS A CRIMINAL ACTION,**
3 **STATUTORY PROTECTIONS FOR NON-DISCLOSURE**
4 **DO NOT APPLY.**

5 Evidence Code § 703.5 states in pertinent part, "no
6 arbitrator or mediator shall be compelled to testify in a
7 subsequent civil proceeding..." Evidence Code § 1119 provides
8 for confidentiality for and non-disclosure of statements or
9 admissions during or writings generated during mediation "in any
10 civil action, or other non-criminal proceeding, in which,
11 pursuant to law, testimony can be compelled to be given." The
12 instant case is a criminal action, therefore these two evidence
13 code sections do not apply.

14 **CONCLUSION**

15 It is therefore requested that the family court evaluator's
16 testimony and records be admitted in this case.

17 Dated:

18 Respectfully submitted,

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21 Attorney for Defendant
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